

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES NOLEN NANCE, JR.,

Plaintiff,

V.

BREMERTON POLICE DEPARTMENT, *et al.*,

Defendants.

Case No. C08-5039 BHS/KLS

ORDER DIRECTING DEFENDANT
LACROSS TO REMOTE MOTION TO
DISMISS AFTER PROPER SERVICE

This civil rights action was re-referred to United States Magistrate Judge Karen L. Strombom on January 1, 2009 pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Presently before the Court is the Motion to Dismiss of Defendant David LaCross. Dkt. # 43. The certificate of mailing attached to Defendant’s motion indicates that counsel “electronically filed the [motion], along with a proposed order dismissing defendant LaCross from this action with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record in this case.” *Id.*, p. 3. Mr. Nance is an incarcerated *pro se* plaintiff, for whom service of all pleadings and motions must be made in paper form by mail. Therefore, he has not received proper notice of Defendant LaCross’s motion. *See* CM/ECF Civil and Criminal Procedures (If the recipient is not a registered participant in ECF, service of the underlying document must be made by the filer in paper form according

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1 to the Federal Rules.).

2 Accordingly, it is **ORDERED**:

3 (1) Defendant LaCross shall serve Plaintiff with a copy of his motion to dismiss by mail
4 and shall file a certificate of mailing with the Court;

5 (2) Defendant LaCross shall refile his motion to dismiss according to the rules governing
6 the filing of dispositive motions;

7 (3) The Clerk is directed to strike the present noting date of December 18, 2008 for
8 Defendant LaCross's motion to dismiss (Dkt. # 43); and

9 (4) The Clerk shall send copies of this Order to Plaintiff and counsel for Defendant
10 LaCross.

12 DATED this 13th day of January, 2009.

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16 Karen L. Strombom
17 United States Magistrate Judge